

COEUR D'ALENE, WEDNESDAY, APRIL 4, 2012 AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

DIANE JAMES

Plaintiff-Appellant,

v.

**CORNELIUS MERCEA and PATRICIA
MERCEA, husband and wife, FIRST
AMERICAN TITLE COMPANY, INC.,**

Defendants-Respondents,

and

**JOE A. LAMPHEAR and SUSAN M.
LAMPHEAR, husband and wife, and FIRST
AMERICAN TITLE INSURANCE COMPANY,**

Defendants.

Docket No. 38135

Appeal from the District Court of the First Judicial District, State of Idaho,
Kootenai County. Hon. John P. Luster, District Judge.

Edward J. Anson, Coeur d'Alene, for appellant.

John P. Whelan, P.C., for respondents.

Diane James appeals the district court's summary dismissal of her claim.

James purchased a parcel of property from Merceas, which contains a single family residence. The Merceas had no contact with James during the sale, but they did certify in writing that the property has no conditions or easements that would affect the ability to clear title. The property appears to have a normal paved driveway that enters the home's garage. However, unbeknownst to James, part of the paved driveway is actually a public right of way that extends farther out than the actual property line of James's residence.

James sued the Merceas, the escrow company, and the builders of the house for

rescission, restitution of the purchase price, or in the alternative, damages for constructive fraud. Subsequently, James voluntarily dismissed her claims against the home builders and entered into a stipulated judgment against the escrow company. The district court eventually granted summary judgment in favor of the Merceas on all counts and awarded attorney fees to the Merceas.

James has appealed, arguing that the district court erred in summarily dismissing her claims. According to James, the Merceas were required to disclose the existence of the easement because it materially affects the use and enjoyment of the land. James also claims the district court relied on inadmissible evidence in its ruling. Finally, James contends that court should have stricken photographs and a narrative from the Merceas's answer to her complaint.

COEUR D'ALENE, WEDNESDAY, APRIL 4, 2012 AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

CITY OF OSBURN,)	
)	
Plaintiff-Respondent,)	
)	
v.)	
)	Docket No. 37965
DAVID C. RANDEL and PAMELA L.)	
RANDEL, husband and wife,)	
)	
Defendants-Appellants.)	
_____)	

Appeal from the District Court of the First Judicial District, State of Idaho,
Shoshone County. Hon. Fred M. Gibler, District Judge.

Madsen Law Office, P.C., Coeur d'Alene, for appellants.

Evans, Keane, Kellogg, for respondent.

David and Pamela Randel appeal from the district court's denial of attorney fees under I.C. § 12-117, which allows fees to a prevailing party where the losing party acted without a reasonable basis in fact or law. The statute only applies to disputes with governmental entities. The City filed this action against the Randels to enforce City ordinances. The City moved for, and was denied, summary judgment. Afterward, the district court granted the City's unopposed motion to dismiss the action. The Randels sought fees on several bases, including I.C. § 12-117, which the court denied. This appeal followed.

COEUR D'ALENE, WEDNESDAY, APRIL 4, 2012 AT 11:10 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Appellant,)	Docket No. 38692
)	
v.)	
)	
IRVIN C. RAY,)	
)	
Defendant-Respondent.)	
)	

Appeal from the District Court of the First Judicial District, State of Idaho,
Bonner County. Hon. Steve Verby, District Judge.

Hon. Lawrence G. Wasden, Idaho Attorney General, Boise, for appellant.

Val Thornton, Sandpoint, for respondent.

The Respondent, Irvin C. Ray, was charged with misdemeanor possession of drug paraphernalia and felony possession of marijuana. Ray moved to suppress the evidence, arguing that it was the fruit of an unlawful search and seizure in violation of the Fourth Amendment and Article 1, section 17 of the Idaho Constitution. The district court granted Ray's motion to suppress evidence arising from an allegedly unlawful detention. The State appealed and the Court of Appeals affirmed the district court's ruling. The State petitioned for review.